IN THE HIGH COURT OF CHHATTISGARH,

BILASPUR Single Bench

Cr.M.P. No. 161 / 2006

Applicant (Accused)

1. Khetmal Soni, 51 Yrs.
   S/o Krishnaram Ji Soni,
2. Smt. Aimy Devi @ Hemabai,
   48 Yrs., w/o Khetmal Soni,
3. Smt. Jyoti Soni, 24 Yrs.,
   w/o Jagdish Soni
4. Om Prakash Soni, 24 Yrs.
   S/o Khetmal Soni,

All R/o Near Oswal Bhavan, Danteshwari Jewelers, Geedam, Distt. Dantewada

VERSUS

Non-Applicant (Complainant)

State of Chattisgarh
Through DM Durg

For Quashing of Criminal Case No. 965/05 in the Court of JMFC, Durg Presided by Shri Abdul Jahid Qureshi.

Application under Sec. 482, Cr.P.C., 1973.

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APP (70)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक Cr.M.P.No.161 **सन्** 2006

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

21.2.2007

Shri Raja Sharma, counsel for the applicants.

Heard on admission.

This revision has been filed for quashing of the proceedings of the Criminal Case No.965/2005 pending in the Court of J.M.F.C. Durg,

A perusal of the paper book would show that on a First Information Report, lodged by the complainant namely Poonam in Mahila Thana, Durg, on 13.7.2005, a case vide Crime No.36/2005 under section 498-A read with section 34 of I.P.C has been registered against the applicants. It appears that on the basis of said F.I.R., investigation was completed and a charge sheet u/s 498-A read with section 34 & section 406 IPC and section 4 of the Dowry Prohibition Act was filed against the petitioners in the Court of J.M.F.C. Durg vide Criminal Case No.965/2005. It is after this, the petitioners who are accused persons, have visited this Court for quashing of the proceedings of the said criminal case.

Learned counsel for the petitioners argues that since an offence u/s 498-A IPC is not a continuing offence and no part of

(पीछे देखिये)

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक Cr.M.P.161/06 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

cause of action arose in the territorial Jurisdiction of courts of Durg, therefore, the charge sheet filed in the court of J.M.F.C., Durg was not competent and the aforesaid Court is having no jurisdiction to try the offence. He refers to the provisions of Chapter XIII of the Code of Criminal Procedure.

I have heard learned counsel for the petitioners at length.

Chapter XIII of the Code of Criminal Procedure provides for jurisdiction of the criminal courts in inquiries and trials. Section 177 provides for ordinary place of enquiry and trial. It has been provided that every offence shall ordinarily be inquired into and tried by a Court within whose local jurisdiction it was committed. Section 178 provides for place of inquiry or trial in relation to the offences when it is uncertain in which of several local areas an offence was committed, or where an offence is committed partly in one local area and partly in another, or where an offence is a continuing one, and continues to be committed in more local areas than one, or where it consists of several acts done in different local areas. It has been provided that in all such cases the offence may be inquired into or tried by a Court having

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मामला क्रमांक Cr. M.P 161/06 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

jurisdiction over any of such local areas. Therefore, a conjoint reading of these two sections would show that the rule laid down by section 177 is one of the general applications and governs all criminal trials held under the provisions of the Code, subject to the exceptions elsewhere provided in the Code. Where as section 178 governs the exceptions as are provided therein.

Approving the decision of Bombay High Court reported in ***AIR 1937 Bom 186 (Ramnarayan Baburao –vs- Emperor),*** the Supreme Court laid down in the matter of ***Narumal Vs- State of Bombay, AIR 1960 S.C. 1329*** that the word "ordinarily" in Section 177, Criminal P.C. means "except where provided otherwise in the Code." The State Legislature is competent to provide for the trial of offences created by its statutes otherwise than is prescribed by section 177; but it must clearly appear from the relevant provisions of the special statute that a departure from the general principles prescribed by section 177 is intended.

Referring to the decisions rendered in the matter of ***Purushottamdas Dalmia V. State of West Bengal (AIR 1961 SC 1589), L.N.Mukherjee –Vs- State of Madras (AIR 1961 SC***

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक Cr.M.P.161/06 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -4-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

1601). Banwarilal Jhunjhunwalla and others –Vs- Union of India and another. AIR 1963 S.C. 1620 and Mohan Baitha and others –vs- State of Bihar and another. (2001) 4 SCC 350. the Apex Court held in the matter of Y.Abhraham Ajith and others –vs- Inspector of Police, Chennai and another. 2004 AIR SCW 4788 that the exception implied by the word "ordinarily" need not be limited to those specially provided for by the law and exceptions may be provided by law on consideration or may be implied from the provisions of law permitting joint trials of offences by the same court.

Therefore, it is well settled that unless the exceptional circumstances are there as are embodied u/s 178 Cr.P.C., the jurisdiction to try an offence shall be with the Court within whose local limits, the offence was committed except where provided otherwise in the Code of Criminal Procedure.

If we examine the contents of the F.I.R. filed in this case at page 7, it would appear that the complainant has said that she was being treated with cruelty by the accused persons in her in-laws' place which is admittedly situated at Geedam in District

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मामला क्रमांक ..Cr. M.P. 161/06 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Dantewada (south Bastar). She makes allegations that there was demand of Rs.1 lakh by the applicants and when she came to her parents place in Durg, her husband (petitioner no.4 herein) came to Durg alongwith his friend Dinesh Thakur and in Durg her brother namely Manoj paid a sum of Rs.50,000/- to the husband and when that amount was received by the husband, then only she was taken by him. She further states that when she reached Geedam then all the petitioners started beating her on account of bringing less amount and they had poured Kerosene oil on her. It is after this, the girl again came back to her parents place and thereafter she lodged the report.

On perusal of the contents of F.I.R., it is apparent that on account of part payment made in Durg, the complainant was being treated with cruelty and admittedly in view of the above, part of cause of action also arose in the territorial jurisdiction of courts situated in Durg' and if the F.I.R. was lodged at Durg and on that report, investigation was completed and charge sheet was filed, the Court of J.M.F.C. Durg was having full authority to entertain such a charge sheet and there appears to be no

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आदेश पत्रक

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..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -6-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

jurisdictional error warranting interference by this Court for quashing of charge sheet for want of territorial jurisdiction. Except this, no other ground was raised before me in this petition.

The petition has no merits and the same is dismissed at the motion stage.

Sd/-
Sunil Kumar Sinha
Judge

Rao

Heard on 21-2-07 AFR